Deposition of David McDowall, Ph.D.

Oregon Firearms Federation, Inc., et al. v. Kotek, et al. (Consolidated)

April 7, 2023



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Page 1 IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON PENDLETON DIVISION OREGON FIREARMS FEDERATION, INC., et al.,) Civil No. Plaintiffs,) 2:22-cv-01815-IM) (Lead Case) v. TINA KOTEK, et al.,) Civil No.) 3:22-cv-01859-IM) (Trailing Case) Defendants.) Civil No. (Continued)) 3:22-cv-01862-IM) (Trailing Case)) Civil No.) 3:22-cv-01869-IM (Trailing Case) * VIDEOCONFERENCE * DEPOSITION UPON ORAL EXAMINATION OF EXPERT DAVID MCDOWALL, PH.D. Witness located in: Niskayuna, New York * All participants appeared via videoconference * DATE TAKEN: April 7, 2023 REPORTED BY: Tia B. Reidt, Washington RPR, CCR #2798 Oregon # 22-0001

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(continued)	
MARK FITZ, et al.,	
Plaintiffs,) v.)	
ELLEN F. ROSENBLUM, et al.,)	
Defendants.)	
KATERINA B. EYRE, et al.,	
) Plaintiffs,)	
v.)	
ELLEN F. ROSENBLUM, et al.,)	
Defendants.)	
DANIEL AZZOPARDI, et al.,	
Plaintiffs,) v.)	
ELLEN F. ROSENBLUM, et al.,)	
Defendants.)	
)	

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- Q. And for that particular survey, were they looking at defensive gun uses?
- A. Defensive gun uses are just part of what they collect. They collect an enormous amount of data.

 Once a crime has been reported, they collect all kinds of details about it, about the injuries people suffered, for example, and whether they had loose teeth, things after being attacked. Those are the kinds of things that the Census Bureau would collect, and part of that is how they responded to crimes. And that's where the defensive gun uses come in.
 - Q. And what was their estimate?
- A. It's -- I know of four surveys that have been done, and they're all kind of -- I mean, four estimates from surveys from a few years ago. They're kind of dated, but they range from about 65,000 to about 120,000, I think.
 - O. And it's based off of this particular dataset?
- A. Yeah. A different -- different years of the data -- surveys ongoing, and so there's an enormous amount of data spanning many years.
- Q. And while we're on this subject, and before I lose my train of thought about Professor English, could we pull up our Exhibit Number 21, which is Professor English's survey.

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Page 28 1 Let me know when you're able to open that up, 2 sir. Α. Okay. Let me see if I can find it here. 3 Well, I'm having difficulty finding it. I 4 have read the report and remember it well, so maybe we 5 can just -- unless there are real details that you want 6 to -- me to comment on. 7 I think we can talk about it in general terms. 8 In -- the report that I have in front of me 9 includes the expanded report that was issued in May of 10 2022. 11 Does that sound right? 12 Α. Yeah, an SSRN? 13 Yes. Ο. 14 Did you have -- did you review the type of 15 survey that was done, and if so, can you tell me what 16 you think about the survey strategy? 17 Well, this is one area where I agree with 18 Professor Kleck who didn't have a very high opinion of 19 it. From the sound of it, it's not like a 20 probability-based survey. He keeps saying throughout 21 22 that document, "We can generalize to the population of the United States and things, "but there are -- a 23 survey researcher would give more description. 24 The nature of how that sample was drawn, it 25

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sounds like it's a voluntary sample that was constructed to be demographically the same as the United States population, which is just not the same as a probability sample that allows that kind of generalization. So that was the impression. It may have been that it was something about that sample that was better than that, but I think that if that were true, he would have said so.

It just does not sound like anything more than a voluntary sample of people on the Internet, and I think that that's what Professor Kleck said too in his deposition. That was a -- that was what I thought when I read it the first time too.

- Q. And so you would have a similar criticism then?
- A. Yeah. I just -- I don't think that that was one of the better ones. Professor Kleck had a long list of surveys, like you have mentioned, and most of those are done by reputable polling agent- -- companies. And most of them do have samples that allow generalizations to the United States population, so of all of them, I would say that's probably the weakest collection.
- Q. Do you recall if Professor English's underlying data has been made public so that folks like

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yourself can take a look at it?

- A. No, I didn't know that.
- Q. No, the question is --
- A. Oh, do I know whether it was?
- Q. Yes.

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- A. Yeah, I don't know whether it was. I doubt it, really, because I would think that there would be confidentiality concerns involving the participants. I don't think that university IRBs, institutional review boards, guard the integrity of researches done at a university would allow that kind of -- that kind of thing to happen.
- Q. What additional information would you find helpful in critiquing the survey that Professor English did?
- A. I think I would need a much fuller description of the nature of the sample and how it was constructed. And just saying that it's nationally representative is pretty much meaningless. How did they get these people? Do they represent -- is there some probability basis for it?

So if one were to generalize to the United States or any population, you need some kind of connections, probability of selecting these people so you can weight them, you can make reasonable inferences

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Page 31 based on that. So I would need something about the 1 probability basis for that survey, something to 2 convince me it was not just -- I think a -- it looked 3 like the kind of thing commercial businesses do to 4 provide survey participants for -- you know, for giving 5 their impressions of commercial products and the like. 6 And also there are some types of uses of 7 Internet surveys with volunteers that are useful that 8 compare people within the survey. What he wants to do 9 is generalize beyond that. There really needs to be 10 some kind of description of how that would be possible. 11 Q. Okay. 12 I think that study would have lots and lots of 13 problems getting published because --14 (Speaking simultaneously.) Ο. 15 -- any competent person, any competent 16 reviewers of any competent journal would say, "This is 17 not enough." 18 Are there any comparable surveys, like the 19 National Crime Victimization Survey, that were done by 20 real examiners who were having face-to-face exchanges? 21 Α. No, I don't think so. 22 Q. That's the only one you're aware of? 23 (Reporter clarification.) 24

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BY MR. WILLIAMSON:

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1	CERTIFICATE
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3	STATE OF WASHINGTON
4	COUNTY OF PIERCE
5	
6	I, Tia Reidt, a Certified Court Reporter in and
7	for the State of Washington, do hereby certify that the
8	foregoing transcript of the deposition of David
9	McDowall, Ph.D., having been duly sworn, on
LO	April 7, 2023, is true and accurate to the best of my
l1	knowledge, skill and ability. Reading and signing was
12	requested pursuant to FRCP Rule 30(e).
L3	IN WITNESS WHEREOF, I have hereunto set my hand
L4	and seal this 12th day of April, 2023.
L5	on Blanco
L6	R. D. Landson
L7	- Was, Keras
L8	/S/ Tia B. Reidt Tia B. Reidt, RPR, CCR # 22-0001
L9	NOTARY PUBLIC, State of Washington.
20	My commission expires 5/15/2026.
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